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Received & Filed
LEWIS COUNTY, WASH
Superior Court

OCT 17 2019

Lewis County Clerk

SUPERIOR COURT OF WASHINGTON FOR LEWIS COUNTY

WARREN PETERSON and LAUNI
PETERSON husband and wife;

Plaintiffs,

v.

WAYNE DYKEMAN and "SPOUSE
DOE" DYKEMAN, husband and wife, and
their marital community;

Defendants.

NO. 19 2 0113621

PLAINTIFFS' COMPLAINT FOR
DAMAGES

Plaintiffs allege as follows:

I. Parties

1.1 Plaintiffs Warren Peterson and Lawni Peterson at all material times were husband and wife and resided in Olympia, Thurston County, Washington.

1.2 Defendants Wayne Dykeman and Spouse Doe Dykeman at all material times were husband and wife and resided in Winlock, Lewis County, Washington. All acts of Wayne Dykeman in this matter were done by and on behalf of the marital community.

II. Jurisdiction and Venue

2.1 The Superior Court of Lewis County, State of Washington, has subject matter jurisdiction over this action pursuant to RCW 2.08.010.

2.2 Jurisdiction and venue are proper in the Superior Court of Washington in and for Lewis County because Defendants reside in Lewis County, Washington, and the incident occurred in Lewis County Washington.

III. Facts

3.1 On May 26, 2019, Wayne Dykeman, was almost 81 years old, and suffering from various medical illnesses including dementia for which he was prescribed medication.

3.2 It is unknown if Defendant had taken his medication for dementia that day.

3.3 Another of Defendant's illnesses was diabetes. Defendant was prescribed medication for diabetes and would also have been directed to eat responsibly in a manner to maintain his blood sugar levels.

3.4 On this day, Defendant is believed to not have eaten and instead only consumed beer.

3.5 On information and belief Defendant's medical care providers were on notice of his medical conditions and should not have allowed him to operate a motor vehicle.

Plaintiffs after conducting discovery on this issue reserve the right to amend this complaint to add other parties.

3.6 At around 5:30 p.m. Defendant Dykeman drove his 2000 Ford Ranger Pickup southbound on Salkum Road. He came to US Highway 12 in Salkum, WA and wanted to traverse it to reach Fuller Road on the other side.

1 3.7 At the same time Plaintiff Chief Warren Peterson was driving his red Honda
2 Goldwing motorcycle westbound on US Highway 12. He was following his spouse.
3 3.8 Chief Peterson has had a long career serving the public in the field of fire-fighting.
4 At the time of the incident he was the Chief of District 6, East Olympia Fire
5 Protection District in Thurston County, Washington.
6 3.9 Chief Peterson was on fire district business. Having recently transported a fire
7 department vehicle for his district, he had gone back with his spouse to retrieve his
8 motorcycle.
9 3.10 Chief Peterson is pictured on the far left in this photograph from October 2018:

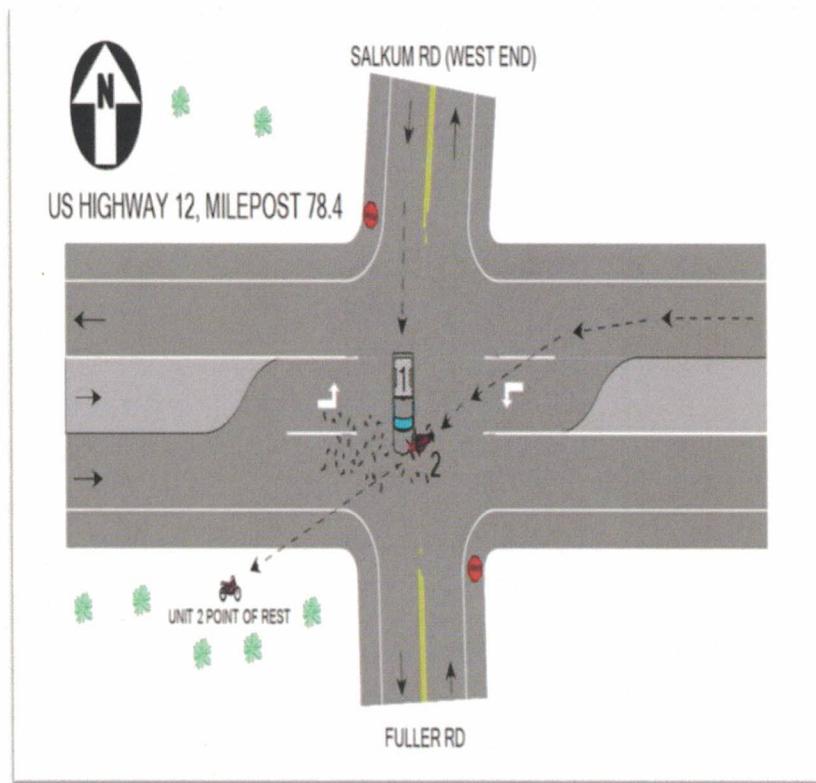


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21 3.11 Chief Peterson was travelling on US highway 12 and at all times had right of way.
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1 3.12 Meanwhile Defendant Dykeman was still on Salkum Road and should have fully
2 stopped at the sign and yielded the right of way where the roadway met the highway.

3 3.13 Instead Dykeman negligently drove onto the highway, directly and proximately
4 causing a crash with Chief Peterson and his motorcycle.

5 3.14 The following police diagram generally illustrates the configuration of the roadway,
6 vehicles, and the path of Chief Peterson's body upon impact.



3.15 Mrs. Peterson watched in horror as her husband flew through the air.

3.16 Chief Peterson landed in thick brush approximately 25 feet from point of impact.

Mrs. Peterson pulled her vehicle over and rushed to her husband, injuring her knee as
she attempted to render aid.

3.17 Plaintiffs Peterson were fault free.

IV. Liability

- 4.1 Defendant Dykeman was negligent in failing to stop and yield the right of way. RCW 46.61.190.
- 4.2 Defendant Dykeman was negligent in failing to maintain a proper lookout and otherwise failing to drive in a safe manner required for the operation of a motor vehicle in the State of Washington.
- 4.3 Defendant Dykeman was negligent in operating a motor vehicle when he was taking medication that impacted his ability to safely operate a motor vehicle, and/or was noncompliant with doctor's orders.
- 4.4 Defendant Dykeman was negligent in operating a motor vehicle when he had previously been diagnosed with dementia and should not have been driving a motor vehicle.
- 4.5 According to the investigating officer, Defendant Dykeman's eyes appeared bloodshot. He could not remember what happened during the collision. He could not recall basic personal background information.
- 4.6 The sole and proximate cause of the collision was the negligent acts of Defendant Dykeman.
- 4.7 If further investigation reveals that others are negligent in enabling Defendant to drive this complaint will be amended.
- 4.8 Plaintiffs Peterson were fault free.

V. Damages



5.1 As a direct and proximate result of the negligence of Defendant, Chief Peterson suffered catastrophic poly trauma including but not limited to:

- a. Cerebral infarction (stroke) with hemiplegia (paralysis) affecting right dominant side;
- b. Displaced intertrochanteric fracture of the right femur;
- c. Fracture of left lower leg;

- d. Two part displaced fracture of surgical neck of right humerus;
- e. Fracture of lower end of right radius;
- f. Fracture of bony scapula left shoulder;

and other critical injuries which resulted in surgery and one month of hospitalization at Harborview Medical Center followed by inpatient admittance to Manor Care rehabilitation hospital into August 2019.

Chief Peterson has incurred and continues to incur medical expenses for treatment by physicians, hospitals, therapists, diagnostic procedures and medications, in home care assistance, as well as other special damages, in amounts to be proven at time of trial.

Chief Peterson has suffered and continues to suffer from pain, disability, disfigurement, mental anguish, emotional trauma, embarrassment, humiliation, loss of enjoyment of life, and other general damages in an amount to be proven at trial.

Chief Peterson has suffered and will continue to suffer lost earning capacity, and lost wages in an amount to be fully proven at the time of trial.

Mrs. Peterson makes a rescuer injury claim. *See, e.g., Estate of Keck v. Blair*, 71 Wn. App. 105, 856 P.2d 740 (Div. 1 1993).

Mrs. Peterson suffered emotional injury with manifestation of physical symptoms due to witnessing the crash and trauma to her husband. She asserts a claim for negligent infliction of emotional distress. *See, e.g., Hegel v. McMahon*, 136 Wn.2d 122, 960 P.2d 424 (1998).

Mrs. Peterson has suffered loss of consortium and other general damages in an amount to be proven at trial.

VI. Prayer for Relief

WHEREFORE, Plaintiffs pray for judgment against Defendants and their marital community, jointly and severally, as follows:

- A. For a finding that Defendants are liable for the incident and that plaintiffs are fault free.
- B. For special damages in an amount to be proven at trial;
- B. For general damages in an amount to be proven at the time of trial;
- C. For costs and disbursements;
- D. For pre- and post-judgment interest on liquidated amounts as allowed by law;
- E. For statutory attorney fees;
- F. If Defendants brings any frivolous or unfounded defenses, for attorneys' fees and cost pursuant to RCW 4.84.185 and/or Rule 11 of the Superior Court Civil Rules;
and
- G. For such other and further relief as this Court deems just and equitable.

DATED this 16th day of October, 2019.

STRITMATTER KESSLER
KOEHLER MOORE

Karen K. Koehler, WSBA #15325
Andrew Ackley, WSBA #41752
Counsel for Plaintiffs